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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/300,381	04/27/1999	HIROSHI KOWAKI	113/61561US	4398

7590 11/20/2003

WENDEROTH LIND AND PONACK LLP  
SUITE 800  
2033 K STREET NW  
WASHINGTON, DC 20006

EXAMINER
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GRIER, LAURA A

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/300,381

Applicant(s)

KOWAKI, HIROSHI

Examiner

Laura A Grier

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,8,9 and 12 is/are rejected.
- 7) ☒ Claim(s) 3-7,10,11 and 13-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 and 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-2, 8-9, and 12** are rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al., U. S. Patent No. 5615270.

Regarding **claim 1**, Miller et al. (herein, Miller) discloses a method and apparatus for dynamic sound optimization (DSO). Miller's DSO comprises an estimator that comprises two integrators (figure 5 – reference 66, and figure 8 – references 74a/b) for integrating an input signal and outputting an integrated signal, a comparator for comparing the outputs of the integrators, and thus inherently selecting the low level output amongst the integrating circuits for enabling adequate signal-to-noise ratio, and it further inherently evident that the integrators have different fall time constants as evidence by the fact two signals are compared (Col. 8, lines 20-41, 49-65).

Regarding **claim 2**, Miller discloses everything claimed as applied above (see claim 1). Miller further indicates the integrating circuits being controlled so that the smaller fall time constant, then the higher the average value of the output levels (col. 8, lines 30-37).

Regarding **claims 9 and 12**, Miller discloses everything claimed as applied above (see claim 1). Miller further discloses a microphone with picks up the sound and noise level (col. 11,

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lines 41-46), wherein the output of the microphone is coupled to the integrating apparatus (figure 1).

Regarding **claim 8**, Miller discloses a method and apparatus for dynamic sound optimization (DSO). Miller's disclosure comprises a music source which outputs audio; a compressor for attenuating the noise level of an audio signal in respect to a feedback signal being input from the estimator (control signal); the microphone pickups the ambient noise found in the signal and Miller's DSO comprises an estimator that comprises two integrators (figure 5 – reference 66, and figure 8 – references 74a/b; and col. 5, lines 35-67, col. 6, lines 1-21, col. 8, lines 20-41, 49-65 and col. 11, lines 35-58)

#### ***Allowable Subject Matter***

**Claims 3-7, 10-11, 13-19** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (703) 306-4819. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

**Any response to this action should be mailed to:**

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Commissioner of Patents and Trademarks


Washington, D.C. 20231

**Or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the receptionist whose telephone number is (703) 305-4700.

LAG   
November 17, 2003

  
**XU MEI**  
**PRIMARY EXAMINER**